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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/675,074	09/28/00	TANIGUCHI	T 9792909-4642

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WM02/0928

EXAMINER

HINDI, N

ART UNIT	PAPER NUMBER
2651	9

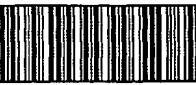
DATE MAILED: 09/28/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. <b>09/675,074</b>	Applicant(s) <b>Taniguchi et al</b>
Examiner <b>Nabil Hindi</b>	Art Unit <b>2651</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Sep. 10, 2001

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 43-45, 47-50, 52-57, 61-63, 65-68, 70-73, 75, 77-80, 82-84, 86<sup>88, 90, 92, 93</sup> is/are pending in the application.

4a) Of the above, claim(s) 47-50, 52-57, 65-68, 70-73, 75, 77-80, 82-84, 86<sup>88, 90, 92, 93</sup> is/are withdrawn from consideration.

5)  Claim(s) 43-45 is/are allowed.

6)  Claim(s) 61-63 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

19)  Notice of Informal Patent Application (PTO-152)

20)  Other: \_\_\_\_\_

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In response to applicant's amendment dated Sep. 10, 2001. The following action is taken:

Claims 61-63 are rejected for the same reasons set forth in the previous office action mailed June 07, 2001 repeated herein for applicant's convenience.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371C of this title before the invention thereof by the applicant for patent.

Claims 61-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayashi et al (5703856).

Applicant's attention is drawn in particular to fig 7. The reference discloses the use of an optical disk recording and reproducing apparatus having a first light source with a first read/write specification 181a, a second light source with a second read/write specification 181b, a selection means to select either one of the first and second laser sources figs 1A-2B, photo detection means 193a, 193b, and an optical element for partially reflecting the first or second light beams 186 toward an optical disk

Claims 43-45 are allowed.

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Applicant's arguments filed Sep. 10, 2001 have been fully considered but they are not persuasive. In response to applicant's argument regarding the pending claims. Applicant's attention is drawn to the amendment dated May 24, 2001. As stated in the remarks, applicant elected fig 10 and "claims 43, 44, 45, 61, 62, and 63 are considered readable on the embodiment shown in fig 10". Applicant's did not state that newly presented claims 43-93 are readable on the elected species. Hence the examiner maintains that only claims 43-45 and 61-63 are the only elected claims and readable on the elected species. In response to applicant's argument regarding the Hayashi et al reference, applicant's attention is drawn to fig 13a showing the use of a laser source 1b, a support element 14, reflecting element 17 covering the photo detection element 13a,13b meeting applicant's claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to NABIL.HINDI at  
telephone number (703) 308.1555



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GROUP 2651